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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,434	11/02/2000	Yuichi Yamagami	2271/62705	4780

7590 11/30/2006
Ivan S Kavrukov
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New York, NY 10036

EXAMINER

WEBB, JAMISUE A

ART UNIT PAPER NUMBER

3629

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/704,434

Applicant(s)

YAMAGAMI ET AL.

Examiner

Jamisia A. Webb

Art Unit

3629

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED _____ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

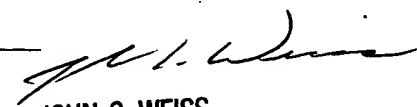
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-12, 17 and 18.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


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TECHNOLOGY CENTER 3600

Continuation of 11. does NOT place the application in condition for allowance because: The applicant is arguing the priority date, given to the Arunapuram rejection, stating that the provisional application does not provide support for the relied upon sections of the Arunapuram reference. The applicant has requested that the examiner point out where the support for the Arunapuram reference is located. While the provisional application is not in the form of a patent application, the provisional application, provides appendices which outline the software program used by the Arunapuram reference. The support for the priority date is found in the software program. The provisional application provides support for a method of shipping orders.

Appendix II, Page 1 discloses the use of rate tables, Page 2 discloses the use of freight payment options and contracted rates. Contracted rates, are where a carrier will negotiate a rate with a customer, and the contracted rate, may actually be different from the actual rate, or current rate. Pages 3 and 5, disclose the use of fulfilling and consolidating orders in a first country. Page 3 also discloses the management of charges. Page 4 shows that networks are used to manage cross-docks and the capabilities of shipment consolidation and multi-leg routing.

Appendix III, discloses the use of Freight Pay, and discusses the use of using crow-fly rates instead of actual rates. Page 26, discloses the use of distance pairs.

Appendix IV, discloses the use of Radial Rates, and states that freight rate is a freight rating and routing method by which freight movement cost is determined using a rate derived from the total trip. Page 4, Examples 3 and 4 disclose multi-stop truckloads, and Page 6, examples 1 and 2 disclose percentage amounts of multi-leg routes.

Appendix V, is a multi-shifting appendix which discloses the use of fixed cost to subsequent trips, Page 6.

Appendix VI, is a multi-leg routing appendix, where a user associates an account profile with each leg. It consolidates orders with costs, Page 8.

Appendix IX, discloses consolidation of pick-ups and deliveries 3.5.12, breakdown of costs, 3.5.8, page 13, and also see 3.5.17.

Appendix X, discloses on Page 5, costs/leg, Page 9 a breakdown of cost, Page 14, a breakdown of accessorial charges, and Page 15 3-5, costs per leg.

It is the examiner's position that the above mentioned section, provides support back to the provisional of the Arunapuram reference. .